



Federal Communications Commission
Washington, D.C. 20554

June 29, 2010

DA 10-1198

Via First-Class Mail and E-mail

William M. Wiltshire, Esquire
Wiltshire & Grannis LLP
1200 18th Street, NW
Suite 1200
Washington, DC 20036

Re: Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses or Transfer Control of Licensees, MB Docket No. 10-56; Response to Request for Confidentiality

Dear Mr. Wiltshire:

On June 21, 2010, you filed, on behalf of DIRECTV, confidential and redacted versions of its comments (the "Comments") in the above-referenced proceeding. In addition, you contemporaneously filed a letter requesting highly confidential treatment for information contained in the Comments and giving reasons why such treatment should be accorded to DIRECTV. We granted your request by letter on June 24, 2010.¹ By further letter, dated June 25, 2010, you seek authority to designate certain additional sensitive data in the economic analysis that DIRECTV filed in the 2007 Liberty Media—DIRECTV proceeding (the "Klein Report")² as Highly Confidential Information subject to the *Second Protective Order*.³

As we stated in the *Second Protective Order*, consistent with past practice, the Commission will in this proceeding grant more limited access to those materials which, if released to competitors, would allow those competitors to gain a significant advantage in the marketplace. We will permit persons submitting such documents and information to designate those materials as Highly Confidential and, as specified in the *Second Protective Order*, we will limit access to such materials to Outside Counsel of Record, their employees, and Outside Consultants and experts whom they retain to assist them in this proceeding, as the aforementioned terms are defined in the *Second Protective Order*. As we found at paragraph 3 of that Order, such materials develop a more complete record on which to base the Commission's decision in this proceeding. We are mindful of the highly sensitive nature of all information, documents, and data described in this letter, but we must also protect the right of the public

¹ See Letter from William T. Lake, Chief, Media Bureau, FCC, to William M. Wiltshire, Esquire, DA 10-1149 (June 24, 2010).

² Klein, Benjamin; Lerner, Andres; and Dacey, Emmett, "An Economic Analysis of DIRECTV Providing Local-Into-Local Service via Satellite in All 210 DMAs," *attached to* Letter from William M. Wiltshire to Marlene H. Dortch, MB Docket No. 07-18 (filed Aug. 23, 2007).

³ *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses or Transfer Control of Licensees*, Second Protective Order, 25 FCC Rcd 2140 (MB 2010) ("*Second Protective Order*").

to participate in this proceeding in a meaningful way. We conclude that the protections adopted in the *Second Protective Order* give appropriate access to the public while protecting a submitting party's competitively sensitive information, and thereby will serve the public interest.

You represent that the Commission gave highly confidential protection to significant portions of the Klein Report in 2007 in connection with the Liberty Media-DIRECTV transaction. You state that the data at issue includes some of DIRECTV's most sensitive business and financial information, including: (1) subscriber acquisition costs varying across different customer profiles; (2) costs to construct and maintain local collection facilities across different market profiles; (3) wholesale pricing of hardware; and (4) DIRECTV's cost of capital. The data also includes granular information at the Designated Market Area level, such as: (5) the number and type of active set-top boxes; (6) the number of subscribers with HD service; (7) technology conversion costs; (8) the percentage by which subscribership grew as a result of DIRECTV's implementation of local-into-local service; (9) average revenue, costs, and margin per subscriber; (10) average monthly gross customer-addition rates over various time periods; (11) average monthly customer-disconnect rates over various time periods; and (12) estimates of the percentage of customers that DIRECTV would lose if it no longer offered local-into-local service.

You further represent that DIRECTV keeps these data confidential, that the data at issue are not available from public sources, and that the data would, if released to competitors, allow those competitors to gain a significant advantage in the marketplace.

Accordingly, to the extent that the information, data or documents (or portions thereof) contained in the Klein Report both (a) contain Highly Confidential Information, as defined in the *Second Protective Order*⁴, and (b) contain information of the type described herein, then such information and documents (or portions thereof) may be designated and submitted as "Highly Confidential" under the *Second Protective Order*.

Sincerely,

William T. Lake
Chief, Media Bureau

⁴ "Highly Confidential Information" means information contained in Stamped Highly Confidential Documents or derived therefrom that is not otherwise available from public sources, that the Submitting Party has kept strictly confidential, and that, the Submitting Party claims, constitutes some of its most sensitive business data which, if released to competitors, would allow those competitors to gain a significant advantage in the marketplace. *See Second Protective Order* at para. 5.